

REFERENCE TITLE: CORP; tribal dispatchers; detention officers

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2119

Introduced by  
Representative McClure

## AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 5; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 6; AMENDING SECTIONS 38-893 AND 38-902, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by  
3 Laws 2007, chapter 87, section 5, is amended to read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that  
7 the local board finds totally and permanently prevents an employee from  
8 performing a reasonable range of duties within the employee's department, was  
9 incurred in the performance of the employee's duties and was the result of  
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on  
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,  
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business  
16 for the employee's employer. A job related motor vehicle accident does not  
17 include an accident that occurs on the way to or from work. Persons found  
18 guilty of violating a personnel rule, a rule established by the employee's  
19 employer or a state or federal law in connection with a job related motor  
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member  
22 contributions deducted from a member's salary and paid to the fund, plus  
23 member contributions transferred to the fund by another retirement plan  
24 covering public employees of this state, plus previously withdrawn  
25 accumulated member contributions which are repaid to the fund in accordance  
26 with this article, minus any benefits paid to or on behalf of a member.

27 3. "Alternate payee" means the spouse or former spouse of a  
28 participant as designated in a domestic relations order.

29 4. "Alternate payee's portion" means benefits that are payable to an  
30 alternate payee pursuant to a plan approved domestic relations order.

31 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
32 amount of salary that is paid a member by a participating employer during a  
33 period of thirty-six consecutive months of service in which the member  
34 received the highest salary within the last one hundred twenty months of  
35 service. Average monthly salary means the aggregate amount of salary that is  
36 paid a member divided by the member's months of service if the member has  
37 less than thirty-six months of service. In the computation under this  
38 paragraph, a period of nonpaid or partially paid industrial leave shall be  
39 considered based on the salary the employee would have received in the  
40 employee's job classification if the employee was not on industrial leave.

41 6. "Beneficiary" means an individual who is being paid or who has  
42 entitlement to the future payment of a pension on account of a reason other  
43 than the individual's membership in the retirement plan.

44 7. "Claimant" means a member, beneficiary or estate that files an  
45 application for benefits with the retirement plan.

1       8. "Credited service" means credited service transferred to the  
2 retirement plan from another retirement system or plan for public employees  
3 of this state, plus those compensated periods of service as a member of the  
4 retirement plan for which member contributions are on deposit in the fund.

5       9. "Cure period" means the ninety-day period in which a participant or  
6 alternate payee may submit an amended domestic relations order and request a  
7 determination, calculated from the time the plan issues a determination  
8 finding that a previously submitted domestic relations order did not qualify  
9 as a plan approved domestic relations order.

10      10. "Designated position" means:

11       (a) For a county:

12       (i) A county detention officer.

13       (ii) A nonuniformed employee of a sheriff's department whose primary  
14 duties require direct contact with inmates.

15       (b) For the state department of corrections and the department of  
16 juvenile corrections, only the following specifically designated positions:

17       (i) Food service.

18       (ii) Nursing personnel.

19       (iii) Corrections physician assistant.

20       (iv) Therapist.

21       (v) Corrections dental assistant.

22       (vi) Hygienist.

23       (vii) Corrections medical assistant.

24       (viii) Correctional service officer, including assistant deputy  
25 warden, deputy warden, warden and superintendent.

26       (ix) State correctional program officer.

27       (x) Parole or community supervision officers.

28       (xi) Investigators.

29       (xii) Teachers.

30       (xiii) Institutional maintenance workers.

31       (xiv) Youth corrections officer.

32       (xv) Youth program officer.

33       (xvi) Behavioral health treatment unit managers.

34       (xvii) The director and assistant directors of the department of  
35 juvenile corrections and the superintendent of the state educational system  
36 for committed youth.

37       (xviii) The director, deputy directors and assistant directors of the  
38 state department of corrections.

39       (xix) Other positions designated by the local board of the state  
40 department of corrections or the local board of the department of juvenile  
41 corrections pursuant to section 38-891, subsection E.

42       (c) For a city or town, a city or town detention officer.

43       (d) For an employer of an eligible group as defined in section 38-842,  
44 full-time dispatchers.

1 (e) For the judiciary, probation, surveillance and juvenile detention  
2 officers.

3 (f) A DETENTION OFFICER WHO IS EMPLOYED BY AN INDIAN TRIBE.

4 (g) A FULL-TIME DISPATCHER WHO IS EMPLOYED BY AN INDIAN TRIBE.

5 11. "Determination" means a written document that indicates to a  
6 participant and alternate payee whether a domestic relations order qualifies  
7 as a plan approved domestic relations order.

8 12. "Determination period" means the ninety-day period in which the  
9 plan must review a domestic relations order that is submitted by a  
10 participant or alternate payee to determine whether the domestic relations  
11 order qualifies as a plan approved domestic relations order, calculated from  
12 the time the plan mails a notice of receipt to the participant and alternate  
13 payee.

14 13. "Domestic relations order" means an order of a court of this state  
15 that is made pursuant to the domestic relations laws of this state and that  
16 creates or recognizes the existence of an alternate payee's right to, or  
17 assigns to an alternate payee the right to, receive a portion of the benefits  
18 payable to a participant.

19 14. "Employee" means a person determined by the local board to be  
20 employed by a participating employer in a designated position.

21 15. "Employer" means an agency or department of this state, ~~or~~ a  
22 political subdivision of this state ~~which~~ OR AN INDIAN TRIBE THAT has one or  
23 more employees in a designated position.

24 16. "Fund" means the corrections officer retirement plan fund.

25 17. "Fund manager" means the fund manager of the public safety  
26 personnel retirement system.

27 18. "Juvenile detention officer" means a juvenile detention officer  
28 responsible for the direct custodial supervision of juveniles who are  
29 detained in a county juvenile detention center.

30 19. "Local board" means the retirement board of the employer that  
31 consists of persons appointed or elected to administer the plan as it applies  
32 to the employer's members in the plan.

33 20. "Member" means any employee who meets all of the following  
34 qualifications:

35 (a) Who is a full-time paid person employed by a participating  
36 employer in a designated position.

37 (b) Who is receiving salary for personal services rendered to a  
38 participating employer or would be receiving salary except for an authorized  
39 leave of absence.

40 (c) Whose customary employment is at least forty hours each week and  
41 for more than six months in a calendar year.

42 21. "Normal retirement date" means the first day of the calendar month  
43 immediately following an employee's completion of twenty years of service or,  
44 in the case of a dispatcher, twenty-five years of service, the employee's  
45 sixty-second birthday and completion of ten years of service or the month in

1 which the sum of the employee's age and years of credited service equals  
2 eighty.

3 22. "Notice of receipt" means a written document that is issued by the  
4 plan to a participant and alternate payee and that states that the plan has  
5 received a domestic relations order and a request for a determination that  
6 the domestic relations order is a plan approved domestic relations order.

7 23. "Participant" means a member who is subject to a domestic relations  
8 order.

9 24. "Participant's portion" means benefits that are payable to a  
10 participant pursuant to a plan approved domestic relations order.

11 25. "Participating employer" means an employer ~~which~~ THAT the fund  
12 manager has determined to have one or more employees in a designated position  
13 or a county, city, ~~or~~ town ~~which~~ OR INDIAN TRIBE THAT has entered into a  
14 joinder agreement pursuant to section 38-902.

15 26. "Pension" means a series of monthly payments by the retirement  
16 plan.

17 27. "Personal representative" means the personal representative of a  
18 deceased alternate payee.

19 28. "Plan approved domestic relations order" means a domestic relations  
20 order that the plan approves as meeting all the requirements for a plan  
21 approved domestic relations order as otherwise prescribed in this article.

22 29. "Probation or surveillance officer" means an officer appointed  
23 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
24 personnel, office assistants or support staff.

25 30. "Retired member" means an individual who is being paid a pension on  
26 account of the individual's membership in the retirement plan.

27 31. "Retirement" means termination of employment after a member has  
28 fulfilled all requirements for a pension.

29 32. "Retirement plan" or "plan" means the corrections officer  
30 retirement plan established by this article.

31 33. "Salary" means the base salary, shift differential pay and holiday  
32 pay paid a member in a designated position for personal services rendered to  
33 a participating employer on a regular monthly, semimonthly or biweekly  
34 payroll basis. Salary includes amounts that are subject to deferred  
35 compensation or tax shelter agreements. Salary does not include payment for  
36 any remuneration or reimbursement other than as prescribed by this  
37 paragraph. For the purposes of this paragraph, "base salary" means the  
38 amount of compensation each member is regularly paid for personal services  
39 rendered to an employer before the addition of any extra monies, including  
40 overtime pay, shift differential pay, holiday pay, fringe benefit pay and  
41 similar extra payments.

42 34. "Segregated funds" means the amount of benefits that would  
43 currently be payable to an alternate payee pursuant to a domestic relations  
44 order under review by the plan, or a domestic relations order submitted to  
45 the plan that failed to qualify as a plan approved domestic relations order,

1 if the domestic relations order were determined to be a plan approved  
2 domestic relations order.

3 35. "Service" means employment rendered to a participating employer as  
4 an employee in a designated position. Any absence that is authorized by an  
5 employer, including any periods during which the employee is on an employer  
6 sponsored long-term disability program, is considered as service if the  
7 employee returns or is deemed by the employer to have returned to a  
8 designated position within the period of the authorized absence.

9 36. "Total and permanent disability" means a physical or mental  
10 condition that is not an accidental disability, that the local board finds  
11 totally and permanently prevents a member from engaging in any gainful  
12 employment and that is the direct and proximate result of the member's  
13 performance of the member's duty as an employee of a participating employer.

14 Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws  
15 2007, chapter 87, section 6, is amended to read:

16 38-881. Definitions

17 In this article, unless the context otherwise requires:

18 1. "Accidental disability" means a physical or mental condition that  
19 the local board finds totally and permanently prevents an employee from  
20 performing a reasonable range of duties within the employee's department, was  
21 incurred in the performance of the employee's duties and was the result of  
22 any of the following:

23 (a) Physical contact with inmates, prisoners, parolees or persons on  
24 probation.

25 (b) Responding to a confrontational situation with inmates, prisoners,  
26 parolees or persons on probation.

27 (c) A job related motor vehicle accident while on official business  
28 for the employee's employer. A job related motor vehicle accident does not  
29 include an accident that occurs on the way to or from work. Persons found  
30 guilty of violating a personnel rule, a rule established by the employee's  
31 employer or a state or federal law in connection with a job related motor  
32 vehicle accident do not meet the conditions for accidental disability.

33 2. "Accumulated member contributions" means the sum of all member  
34 contributions deducted from a member's salary and paid to the fund, plus  
35 member contributions transferred to the fund by another retirement plan  
36 covering public employees of this state, plus previously withdrawn  
37 accumulated member contributions which are repaid to the fund in accordance  
38 with this article, minus any benefits paid to or on behalf of a member.

39 3. "Alternate payee" means the spouse or former spouse of a  
40 participant as designated in a domestic relations order.

41 4. "Alternate payee's portion" means benefits that are payable to an  
42 alternate payee pursuant to a plan approved domestic relations order.

43 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
44 amount of salary that is paid a member by a participating employer during a  
45 period of thirty-six consecutive months of service in which the member

received the highest salary within the last one hundred twenty months of service. Average monthly salary means the aggregate amount of salary that is paid a member divided by the member's months of service if the member has less than thirty-six months of service. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the salary the employee would have received in the employee's job classification if the employee was not on industrial leave.

6. "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

7. "Claimant" means a member, beneficiary or estate that files an application for benefits with the retirement plan.

8. "Credited service" means credited service transferred to the retirement plan from another retirement system or plan for public employees of this state, plus those compensated periods of service as a member of the retirement plan for which member contributions are on deposit in the fund.

9. "Cure period" means the ninety-day period in which a participant or alternate payee may submit an amended domestic relations order and request a determination, calculated from the time the plan issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.

10. "Designated position" means:

(a) For a county:

(i) A county detention officer.

(ii) A nonuniformed employee of a sheriff's department whose primary duties require direct contact with inmates.

(b) For the state department of corrections and the department of juvenile corrections, only the following specifically designated positions:

(i) Food service.

(ii) Nursing personnel.

(iii) Corrections physician assistant.

(iv) Therapist.

(v) Corrections dental assistant.

(vi) Hygienist.

(vii) Corrections medical assistant.

(viii) Correctional service officer, including assistant deputy warden, deputy warden, warden and superintendent.

(ix) State correctional program officer.

(x) Parole or community supervision officers.

(xi) Investigators.

(xii) Teachers.

(xiii) Institutional maintenance workers.

(xiv) Youth corrections officer.

(xv) Youth program officer.

(xvi) Behavioral health treatment unit managers.

1 (xvii) The director and assistant directors of the department of  
2 juvenile corrections and the superintendent of the state educational system  
3 for committed youth.

4 (xviii) The director, deputy directors and assistant directors of the  
5 state department of corrections.

6 (xix) Other positions designated by the local board of the state  
7 department of corrections or the local board of the department of juvenile  
8 corrections pursuant to section 38-891, subsection E.

9 (c) For a city or town, a city or town detention officer.

10 (d) For an employer of an eligible group as defined in section 38-842,  
11 full-time dispatchers.

12 (e) For the judiciary, probation, surveillance and juvenile detention  
13 officers.

14 (f) A DETENTION OFFICER WHO IS EMPLOYED BY AN INDIAN TRIBE.

15 (g) A FULL-TIME DISPATCHER WHO IS EMPLOYED BY AN INDIAN TRIBE.

16 11. "Determination" means a written document that indicates to a  
17 participant and alternate payee whether a domestic relations order qualifies  
18 as a plan approved domestic relations order.

19 12. "Determination period" means the ninety-day period in which the  
20 plan must review a domestic relations order that is submitted by a  
21 participant or alternate payee to determine whether the domestic relations  
22 order qualifies as a plan approved domestic relations order, calculated from  
23 the time the plan mails a notice of receipt to the participant and alternate  
24 payee.

25 13. "Domestic relations order" means an order of a court of this state  
26 that is made pursuant to the domestic relations laws of this state and that  
27 creates or recognizes the existence of an alternate payee's right to, or  
28 assigns to an alternate payee the right to, receive a portion of the benefits  
29 payable to a participant.

30 14. "Employee" means a person determined by the local board to be  
31 employed by a participating employer in a designated position.

32 15. "Employer" means an agency or department of this state, ~~or~~ a  
33 political subdivision of this state ~~which~~ OR AN INDIAN TRIBE THAT has one or  
34 more employees in a designated position.

35 16. "Fund" means the corrections officer retirement plan fund.

36 17. "Fund manager" means the fund manager of the public safety  
37 personnel retirement system.

38 18. "Juvenile detention officer" means a detention officer responsible  
39 for the direct custodial supervision of juveniles who are detained in a  
40 county juvenile detention center.

41 19. "Local board" means the retirement board of the employer that  
42 consists of persons appointed or elected to administer the plan as it applies  
43 to the employer's members in the plan.

44 20. "Member" means any employee who meets all of the following  
45 qualifications:

1 (a) Who is a full-time paid person employed by a participating  
2 employer in a designated position.

3 (b) Who is receiving salary for personal services rendered to a  
4 participating employer or would be receiving salary except for an authorized  
5 leave of absence.

6 (c) Whose customary employment is at least forty hours each week and  
7 for more than six months in a calendar year.

8 21. "Normal retirement date" means the first day of the calendar month  
9 immediately following an employee's completion of twenty years of service or,  
10 in the case of a dispatcher, twenty-five years of service, the employee's  
11 sixty-second birthday and completion of ten years of service or the month in  
12 which the sum of the employee's age and years of credited service equals  
13 eighty.

14 22. "Notice of receipt" means a written document that is issued by the  
15 plan to a participant and alternate payee and that states that the plan has  
16 received a domestic relations order and a request for a determination that  
17 the domestic relations order is a plan approved domestic relations order.

18 23. "Participant" means a member who is subject to a domestic relations  
19 order.

20 24. "Participant's portion" means benefits that are payable to a  
21 participant pursuant to a plan approved domestic relations order.

22 25. "Participating employer" means an employer ~~which~~ THAT the fund  
23 manager has determined to have one or more employees in a designated position  
24 or a county, city, ~~or~~ town ~~which~~ OR INDIAN TRIBE THAT has entered into a  
25 joinder agreement pursuant to section 38-902.

26 26. "Pension" means a series of monthly payments by the retirement  
27 plan.

28 27. "Personal representative" means the personal representative of a  
29 deceased alternate payee.

30 28. "Plan approved domestic relations order" means a domestic relations  
31 order that the plan approves as meeting all the requirements for a plan  
32 approved domestic relations order as otherwise prescribed in this article.

33 29. "Probation or surveillance officer" means an officer appointed  
34 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
35 personnel, office assistants or support staff.

36 30. "Retired member" means an individual who is being paid a pension on  
37 account of the individual's membership in the retirement plan.

38 31. "Retirement" means termination of employment after a member has  
39 fulfilled all requirements for a pension.

40 32. "Retirement plan" or "plan" means the corrections officer  
41 retirement plan established by this article.

42 33. "Salary" means the base salary, overtime pay, shift differential  
43 pay and holiday pay paid a member in a designated position for personal  
44 services rendered to a participating employer on a regular monthly,  
45 semimonthly or biweekly payroll basis, except that for the purposes of this

paragraph the amount of overtime included shall not include payments to the member for the sale of compensatory time. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, payments for the sale of compensatory time, fringe benefit pay and similar extra payments.

34. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the plan, or a domestic relations order submitted to the plan that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

35. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

36. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 3. Section 38-893, Arizona Revised Statutes, is amended to read:

38-893. Local boards; powers and duties; rules; hearings; administrative review

A. The administration of the plan and the responsibility for making the provisions of the plan effective for each employer are vested in a local board. The state department of corrections, the department of juvenile corrections, each participating county sheriff's department, each participating city or town, each participating employer of full-time dispatchers for eligible groups as defined in section 38-842, EACH PARTICIPATING INDIAN TRIBE THAT EMPLOYS DETENTION OFFICERS, EACH PARTICIPATING INDIAN TRIBE THAT EMPLOYS FULL-TIME DISPATCHERS and the judiciary shall have a local board. Each local board is constituted as follows:

1. For the state departments, two members who are elected by secret ballot by members employed by that department in a designated position and two citizens who are appointed by the governor. The director of each state department shall appoint one member to the local board who is knowledgeable

1 in personnel actions. Each state department local board shall elect a  
2 chairman.

3 2. For each participating county, the chairman of the board of  
4 supervisors, or the chairman's designee who is approved by the board of  
5 supervisors, as chairman, two members who are elected by secret ballot by  
6 members employed by the participating county in a designated position and two  
7 citizens, one of whom shall be the head of the merit system if it exists for  
8 the group of members, who are appointed by the chairman of the board of  
9 supervisors with the approval of the board of supervisors.

10 3. For political subdivisions OR INDIAN TRIBES, the mayor or chief  
11 elected official or a designee of the mayor or chief elected official  
12 approved by the respective governing body as chairman, two members elected by  
13 secret ballot by members employed by the appropriate employer and two  
14 citizens, one of whom shall be the head of the merit system if it exists for  
15 the group of members, appointed by the mayor or chief elected official and  
16 with the approval of the city council or governing body of the employer.

17 4. For the judiciary, two members who are elected by secret ballot by  
18 members who are employed as a probation, surveillance or juvenile detention  
19 officer, a designee of the chief justice of the Arizona supreme court and two  
20 citizens, one of whom shall be the head of a human resource department for  
21 the group of members, appointed by the chief justice.

22 B. The appointments and elections of local board members shall take  
23 place with one elective and one appointive board member, as designated by the  
24 appointing authority, serving a term ending two years after the date of  
25 appointment or election and the other local board members serving a term  
26 ending four years after the date of appointment or election. Thereafter,  
27 every second year, and as a vacancy occurs, an office shall be filled for a  
28 term of four years in the same manner as provided in this section.

29 C. Within ten days after the member's appointment or election, each  
30 member of a local board shall take an oath of office that, so far as it  
31 devolves on the member, the member shall diligently and honestly administer  
32 the affairs of the local board and shall not knowingly violate or willingly  
33 permit to be violated any of the provisions of law applicable to the plan.

34 D. Except as limited by subsection E of this section, a local board  
35 shall:

36 1. Decide all questions of eligibility and service credits and  
37 determine the amount, manner and time of payment of any benefit under the  
38 plan.

39 2. Make a determination as to the right of a claimant to a benefit and  
40 afford a claimant or the fund manager, or both, a right to a rehearing on the  
41 original determination.

42 3. Request and receive from the employers and from members information  
43 as is necessary for the proper administration of the plan and action on  
44 claims for benefits and forward the information to the fund manager.

1           4. Distribute, in the manner the local board determines to be  
2 appropriate, information explaining the plan that is received from the fund  
3 manager.

4           5. Furnish the employer, the fund manager and the legislature, on  
5 request, with annual reports with respect to the administration of the plan  
6 that are reasonable and appropriate.

7           6. Appoint a medical board, which is composed of a designated  
8 physician or clinic other than the employer's regular employee or  
9 contractor. If required, the local board may employ other physicians to  
10 report on special cases. The examining physician or clinic shall report the  
11 results of examinations made to the local board, and the secretary of the  
12 local board shall preserve the report as a permanent record.

13          7. Sue and be sued to effectuate the duties and responsibilities set  
14 forth in this article.

15          E. A local board has no power to add to, subtract from, modify or  
16 waive any of the terms of the plan, change or add to any benefits provided by  
17 the plan or waive or fail to apply any requirement of eligibility for  
18 membership or benefits under the plan.

19          F. A local board, from time to time, shall establish and adopt rules  
20 as it deems necessary or desirable for its administration. All rules and  
21 decisions of a local board shall be uniformly and consistently applied to all  
22 members in similar circumstances.

23          G. An action by a majority vote of the members of a local board that  
24 is not inconsistent with the provisions of the plan is final, conclusive and  
25 binding on all persons affected by it, unless a timely application for a  
26 rehearing or appeal is filed as provided in this article.

27          H. A claimant or the fund manager may apply for a rehearing before the  
28 local board within the time period prescribed in this subsection. A claimant  
29 or the fund manager shall file an application for rehearing in writing with a  
30 member of the local board or its secretary within sixty days after:

31           1. The claimant receives notification of the local board's original  
32 action by certified mail, by attending the meeting at which the action is  
33 taken or by receiving benefits from the plan pursuant to the local board's  
34 original action, whichever occurs first.

35           2. The fund manager receives notification of the local board's  
36 original action by certified mail or by receipt of written directions from  
37 the local board pursuant to its original action, whichever occurs first.

38          I. A hearing before a local board on a matter remanded from the  
39 superior court is not subject to a rehearing before the local board.

40          J. Decisions of local boards are subject to judicial review pursuant  
41 to title 12, chapter 7, article 6.

42          K. When making a ruling, determination or calculation, the local board  
43 is entitled to rely on information furnished by the employer, the fund  
44 manager, independent legal counsel or the actuary for the plan.

1 L. Each member of a local board is entitled to one vote. A majority  
2 of the appointed and elected members is necessary for a decision by the  
3 members of a local board at any meeting of the local board.

4 M. The local board shall adopt bylaws as it deems necessary. The  
5 local board shall elect a secretary who may, but need not, be a member of the  
6 local board. The secretary of the local board shall keep a record and  
7 prepare minutes of all meetings, forward the minutes to the fund manager  
8 within forty-five days after each meeting and forward all necessary  
9 communications to the fund manager.

10 N. The employer shall pay the fees of the medical board and of the  
11 local board's legal counsel and all other expenses of the local board  
12 necessary for the administration of the plan at rates and in amounts as the  
13 local board approves.

14 O. The local board shall issue directions to the fund manager  
15 concerning all benefits that are to be paid from the employer's account  
16 pursuant to the provisions of the fund. The local board shall keep on file,  
17 in the manner it deems convenient and proper, all reports from the fund  
18 manager and the actuary.

19 P. The local board and the individual members of the local board are  
20 indemnified from the assets of the fund against any liability arising by  
21 reason of any act, or failure to act, made in good faith pursuant to the  
22 provisions of the plan.

23 Sec. 4. Section 38-902, Arizona Revised Statutes, is amended to read:

24 38-902. Joinder agreement

25 A. County detention officers and nonuniformed employees of a sheriff's  
26 department whose primary duties require direct contact with inmates may  
27 participate in this plan if the board of supervisors of the county enters  
28 into a joinder agreement with the fund manager to bring such employees into  
29 this plan. The joinder agreement shall be in accordance with the provisions  
30 of this plan. All such employees shall be designated for membership in the  
31 joinder agreement unless written consent to the contrary is obtained from the  
32 fund manager.

33 B. City or town detention officers may participate in this plan if the  
34 governing body of the city or town enters into a joinder agreement with the  
35 fund manager to bring its detention officers into this plan. The joinder  
36 agreement shall be in accordance with the provisions of the plan. The  
37 governing body of the city or town shall designate all detention officers for  
38 membership in the plan unless written consent to the contrary is obtained  
39 from the fund manager.

40 C. Full-time dispatchers may participate in this plan if the governing  
41 body or agency of the employer of an eligible group as defined in  
42 section 38-842 enters into a joinder agreement with the fund manager to bring  
43 its full-time dispatchers into this plan. The joinder agreement shall be in  
44 accordance with the provisions of this plan. The governing body or agency of  
45 the employer shall designate all full-time dispatchers for membership in the

1 plan except for a full-time dispatcher who signs an irrevocable agreement  
 2 before the joinder agreement becomes effective electing not to become a  
 3 member of the plan. A full-time dispatcher employed by an employer who  
 4 becomes eligible for membership in the plan pursuant to this section may  
 5 elect to participate in the plan within the deadlines and pursuant to the  
 6 terms prescribed for such participation by the fund manager.

7 D. Probation, surveillance and juvenile detention officers may  
 8 participate in this plan if the administrative office of the courts enters  
 9 into a joinder agreement with the fund manager to bring its probation,  
 10 surveillance and juvenile detention officers into this plan. The joinder  
 11 agreement shall be in accordance with the provisions of this plan. The  
 12 administrative office of the courts shall designate all probation,  
 13 surveillance and juvenile detention officers for membership in this plan  
 14 unless written consent to the contrary is obtained from the fund manager.

15 E. DETENTION OFFICERS OR FULL-TIME DISPATCHERS EMPLOYED BY AN INDIAN  
 16 TRIBE MAY PARTICIPATE IN THIS PLAN IF THE INDIAN TRIBE ENTERS INTO A JOINDER  
 17 AGREEMENT WITH THE FUND MANAGER TO BRING ITS DETENTION OFFICERS OR FULL-TIME  
 18 DISPATCHERS INTO THIS PLAN. BEFORE THE INDIAN TRIBE JOINS THE PLAN, IT MUST  
 19 FILE A CERTIFIED COPY OF A RESOLUTION APPROVING THE JOINDER WITH THE FUND  
 20 MANAGER AND ALSO REQUEST A PRELIMINARY ACTUARIAL SURVEY TO DETERMINE THE  
 21 ESTIMATED COST OF PARTICIPATION, THE BENEFITS TO BE DERIVED AND OTHER  
 22 INFORMATION DEEMED APPROPRIATE. THE COST OF THE SURVEY SHALL BE PAID BY THE  
 23 INDIAN TRIBE. AS A CONDITION TO PARTICIPATION IN THE PLAN AN INDIAN TRIBE  
 24 EMPLOYER, BY RESOLUTION OF THE GOVERNING BODY, SHALL:

25 1. AGREE THAT ALL DISPUTES INVOLVING INTERPRETATION OF STATE STATUTES  
 26 INVOLVING THE PLAN, AND ANY AMENDMENTS TO THOSE STATUTES, WILL BE RESOLVED  
 27 THROUGH THE COURT SYSTEM OF THIS STATE.

28 2. AGREE TO BE BOUND BY STATE STATUTES AND LAWS THAT REGULATE AND  
 29 INTERPRET THE PROVISIONS OF THE PLAN, INCLUDING ELIGIBILITY FOR MEMBERSHIP IN  
 30 THE PLAN, SERVICE CREDITS AND THE RIGHTS OF ANY CLAIMANT TO BENEFITS AND THE  
 31 AMOUNT OF THOSE BENEFITS.

32 3. AGREE TO MEET ANY REQUIREMENT THAT THE FUND MANAGER MAY PRESCRIBE  
 33 TO ENSURE TIMELY PAYMENT OF MEMBER AND EMPLOYER CONTRIBUTIONS AND ANY OTHER  
 34 AMOUNTS DUE FROM THE EMPLOYER TO THE PLAN.

35 4. INCLUDE IN THE JOINDER AGREEMENT ANY OTHER PROVISION DEEMED  
 36 NECESSARY BY THE FUND MANAGER FOR THE ADMINISTRATION OR ENFORCEMENT OF THE  
 37 AGREEMENT.

38 ~~E.~~ F. The new employer shall designate the groups of employees who  
 39 are eligible to participate in the plan and shall agree to make contributions  
 40 each year that are sufficient to meet both the normal cost of a level cost  
 41 method attributable to inclusion of its employees and the prescribed interest  
 42 on the past service cost for its employees.

1       ~~F.~~ G. Before the execution of any joinder agreement each employer  
2       contemplating participation in the plan shall have an actuarial valuation  
3       made, which is payable by the employer, to determine the estimated cost of  
4       participation in accordance with section 38-894.

5       ~~G.~~ H. Assets under any existing public employee defined benefit  
6       retirement program, except a military retirement program, that are necessary  
7       to equal the actuarial present value of projected benefits to the extent  
8       funded on a market value basis as of the most recent actuarial valuation  
9       attributable to the employer's designated employee group, calculated using  
10      the actuarial methods and assumptions adopted by the existing public employee  
11      retirement program, shall be transferred from the program to this fund no  
12      later than sixty days after the employer's effective date. That portion of  
13      the transferred assets that is attributable to employee contributions,  
14      including interest credits, shall be properly allocated to each affected  
15      employee of the employer and credited to the employee's initial accumulated  
16      contributions in accordance with a schedule furnished by the employer to the  
17      fund manager.

18      Sec. 5. Conditional enactment

19      Section 38-881, Arizona Revised Statutes, as amended by Laws 2007,  
20      chapter 87, section 6 and this act, becomes effective on the date prescribed  
21      in Laws 2005, chapter 324, section 2 but only on the occurrence of the  
22      condition prescribed by Laws 2005, chapter 324, section 2.